D.B.CIVIL WRIT PETITION NO. 9333/2005
S.K.Vyas
v.
Union of India & ors.

Date of order : 04.04.2007.

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

. . .

Shri Narendra Mishra for the petitioner

This writ petition arises from the order of the Central Administrative Tribunal, Jaipur Bench dated 21.7.2005 in OA no. 326/2005 rejecting the original application of the petitioner.

The dispute relates to House Rent Allowance (HRA) and the petitioner had filed the original application for quashing an order by which direction was issued to recover the amount of HRA paid to him. It is the admitted position that a quarter was allotted to the petitioner which he did not occupy but received HRA. Case of the petitioner is that the quarter was situated at the third floor of the building and being heart patient and his wife being patient of gout, it was not possible for him to live in the quarter.

In Director, Central Plantation Crops Research Institute, Kesaragod I ors. v. M.Purushothaman & ors., AIR 1994 SC 2541 it was held by the Supreme Court that where employee refuses to occupy the official accommodation offered to him he is not entitled to HRA. If the plea

of this type is accepted there is possibility of the same being misused, for, the employee may refuse to accept allotment if the quarter is not of his choice. Counsel referred to rule 7 of the Fundamental Rules Part V. The rule lays down that a government servant living in a house owned by him, his wife, children, father or mother shall also be eligible for house rent allowance. The rule is applicable in case where quarter is not available and/or allotted to the employee. It is an enabling provision which entitles the government servant for HRA if he lives in his own house or a house owned by his wife, children or parents.

Upon consideration of the facts and circumstances, the Tribunal recorded a categorical finding that the petitioner had two accommodations of his own and he was not in need of government accommodation, and that is why he refused government accommodation offered to him. In the circumstances direction for recovery of HRA can not be said to be arbitrary or illegal so as to warrant interference.

We thus find no error in the order of the Tribunal. The writ petition is dismissed.

mathur/ (MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.